REMARKS

In this Amendment, Applicant has amended Claims 1 – 10. Claims 1 and 7 – 10 have been amended to overcome the rejection. In addition, Claims 2 – 6 have been amended to rephrase certain expression and provide proper dependent form. In addition, the specification has been amended to rephrase certain expressions. It is respectfully submitted that no new matter has been introduced by the amended claims and specification. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

CLAIM OBJECTIONS:

Claim 7 has objected for containing certain informalities. In the present amendment, Claim 7 has been amended to replace the term "downloading" with the term "downloads" according to Examiner's suggestion. Therefore, the objection has been overcome. Accordingly, withdrawal of the objection is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 112 SECOND PARAPGRAPH:

Claims 1 and 10 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is respectfully submitted that the rejections have been overcome by this amendment. Claim 1 has been amended to define that the media key in stored in memory in either encrypted or decrypted form. In Claim 10, the term "media work" has been amended to "the product", which has antecedent basis.

Therefore, the rejection under 35 U.S.C. § 112, second paragraph, has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 112, second paragraph, is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103:

Claims 1 – 5 and 7 – 10 have been rejected under 35 U.S.C. §103 as allegedly being unpatentable over Peinado et al. (US 6,775,655), hereinafter Peinado, in view of Lee et al. (US 6,636,966), hereinafter Lee. Claim 6 has been rejected under 35 U.S.C. §103 as allegedly being unpatentable over Peinado in view of Blakley III et al. (US 5,677,952), hereinafter Blakley.

Applicant traverses the rejection and respectfully submits that the embodiments of present-claimed invention are not obvious over the cited references because there is no motivation to combine the references to achieve the present invention as defined. There is no reasonable expectation of success for the combination. Even if they are combined, they will not teach or disclose the present invention as defined.

More specifically, Claim 1 of the present invention includes the feature of downloading encrypted media from a remote server to a client device over a data network. Claim 1 also includes the features of at least one server for storing the encrypted media work, a second server for storing media keys which are used to decrypt the media work on a client device, and a third server from which a client may obtain the right to receive media keys.

Peinado discloses downloading media works from a remote server, but it does not disclose a retail server and a separate server for storing media keys. Lee discloses a "retail" server and a separate media key server, but it is not related to downloading media works from a remote server over a data network. Lee is concerned with enabling content stored on physical media already in the user's possession. A skilled artisan would not look to protection systems used for physical media to solve key management problems

arising from online distribution of content. There is no motivation to combine the teaching of these two references.

Lee does not mention as to why there is any advantage in having a retail server and a media key server as separate entities. There is no disclosure of why such a separate arrangement might be beneficial, either in the context of the invention disclosed by Lee, or in any other context. Accordingly, there is no motivation to apply the teaching of separate retail and media key servers in Lee to the teaching of Peinado. There is nothing in any of the references and prior art to suggest that the combination might have any benefit.

Furthermore, even if the teaching of Peinado is combined with the teaching of Lee, it does not result in the invention of present claim 1.

Firstly, neither Peinado, nor Lee, discloses using a different encryption key for each work. In both Peinado and Lee, it appears that the same encryption key might be used for more than one work.

Secondly, in both Peinado and Lee, the media work is present on the client device prior to obtaining a decryption key. In column 10, lines 32-46 of Peinado, the structure of the downloaded media is discussed. The downloaded media work includes license acquisition information. It is, therefore, necessary to have downloaded the media work before the corresponding license and associated media key can be obtained from the key server. There is no disclosure in Peinado of obtaining a media key and subsequently downloading the associated media work. Although there is a description of a situation in which a license already stored on the client device applies to subsequently downloaded content, this relates to the situation in which a single license and media key relates to more than one media work. Lee clearly relates to the scenario where the media work is already on the storage media in the client device. Indeed, in column 2, lines 14-20 of Lee, it is stated that systems in which keys are provided prior to distribution of content to a customer are undesirable.

Claim 1 has been amended to clarify that the encrypted media key is first downloaded to the client device and the media work is subsequently downloaded to the client device. This is not taught by either Peinado or Lee, and it is crucial to the streaming of digital works where the consumer is able to commence listening or viewing prior to the completion of the download of the entire work.

Accordingly, Applicant respectfully submits that Claim 1 is not rendered obvious by the teaching of Peinado and Lee. For the same reasons, Claims 7 and 8 are not rendered obvious by the teaching of Peinado and Lee.

With regard to the rejection of Claim 2, Peinado does not disclose downloading a media key prior to downloading an encrypted media work, as stated above. The passage of Peinado that the Examiner has referred to, from column 23, line 55 to column 24, line 1, simply states that the media key may be encrypted itself. It does not state that when the media work is downloaded, the encrypted media key is retrieved form the memory, decrypted, and then used to decrypt the media work.

With regard to the rejection of Claims 3 and 4, the license acquisition information of Peinado is not equivalent to the steering file of the present invention. Claim 3 recites the steering file **causes a request to be made to the second server** for the key for the media work identified in the steering file. In Peinado, the key is sent with the license information, so no request needs to be made. With regard to Claim 4, it is stated in Claim 4 that the steering file **causes the client device to generate a request** to the first server to supply the encrypted media work. The license acquisition information of Peinado does not cause a request for the media work. In fact, the reverse is almost true. It is the media work which contains information about obtaining a license, as stated above.

With regard to the rejection to Claim 6, as discussed above, it would not be obvious to combine the disclosure of Peinado with the disclosure of Lee to arrive at the subject matter of Claim 1. The combination of Peinado, Lee and Blakley is not obvious.

Blakley relates to encryption for data on a mass storage device, not to information downloadable over a data network, and solves a very different problem from the present invention. Similarly, it is respectfully submitted that the rejection to Claims 9 and 10 is improper due to their differences from the references stated above.

Therefore, the rejection under 35 U.S.C. § 103 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 103 is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

JACOBSON HOLMAN PLLC

Date: May 9, 2005
(202) 638-6666
400 Seventh Street, N.W.
Washington, D.C. 20004
Atty. Dkt. No.: P66409US1

By _____
John C. Holman
Registration No. 22,769